

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA**

<div style="display: flex; justify-content: space-between;"><div style="width: 45%;">KOCH FOODS OF ALABAMA, LLC, an Alabama Limited Liability company</div><div style="width: 5%; text-align: center;">)</div><div style="width: 50%;"></div></div> <div style="display: flex; justify-content: space-between;"><div style="width: 45%;">Plaintiff and Counterclaim-defendant,</div><div style="width: 5%; text-align: center;">)</div><div style="width: 50%;"></div></div> <div style="display: flex; justify-content: space-between;"><div style="width: 45%;">v.</div><div style="width: 5%; text-align: center;">)</div><div style="width: 50%;"></div></div> <div style="display: flex; justify-content: space-between;"><div style="width: 45%;">GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware corporation,</div><div style="width: 5%; text-align: center;">)</div><div style="width: 50%;"></div></div> <div style="display: flex; justify-content: space-between;"><div style="width: 45%; border-top: 1px solid black;">Defendant and Counterclaim-plaintiff.</div><div style="width: 5%; text-align: center;">)</div><div style="width: 50%;"></div></div>)	Case No. 07-cv-522-MHT Honorable Myron H. Thompson Honorable Terry F. Moorer
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**AMENDMENT TO KOCH FOODS’ BRIEF AND EVIDENTIARY MATERIALS
IN OPPOSITION TO GECC’S MOTION FOR SUMMARY JUDGMENT**

Plaintiff and Counterclaim-Defendant, Koch Foods of Alabama, LLC (“Koch”), through its undersigned counsel, files this Amendment to Koch Foods’ Brief And Evidentiary Materials in Opposition To GECC’s Motion For Summary Judgment Motion, and states as follows:

1. On January 7, 2008, Koch filed its Brief And Evidentiary Materials in Opposition to GECC’s Motion For Summary Judgment Motion (Doc. 67) (the “Brief”).
2. On page 10 of the Brief, the column name of the second column of the table in Paragraph 27 should read “Fair Market Value – In Place” instead of “Fair Market Value – In

Place as of Day 1 Year 1.”¹ The last number in the third column of the table in Paragraph 27 should be \$300,000 instead of \$300.000. Similarly, the last number in the third column in Paragraph 26 should be \$458,580 instead of \$458.580. The entire corrected Paragraphs 26 and 27 should read as follows:

26. Mr. Breakstone appraised the Equipment in September 2007 again after this litigation was commenced. (Ex. 20, Breakstone September 2007 Report, at p. 1). In addition to Fair Market – Remove and Orderly Liquidation Value, Mr. Breakstone’s report gave another valuation: Fair Market Value – In Place as of Day One Year One, which means the Fair Market Value In Place as of “the actual installation and operational date in Spring 2006.” (Ex. 20, at p. 2). These valuations are shown in the following table (Ex. 20, at pp. 12-25).

Equipment	Fair Market Value – In Place as of Day 1 Year 1	Fair Market Value- Remove	Orderly Liquidation Value
Freezer	\$473,000	\$240,000	\$150,000
Deboner	\$925,068	\$218,580	\$110,400
Total	\$1,398,068	\$458,580	\$260,400

27. Mr. David Dalfonso, the expert retained by Koch, appraised the Equipment in October 2007 (Ex. 21, Dalfonso Report, at p. 1). His valuations are listed in the following table. (Ex. 21, at pp. 13-21).

Equipment	Fair Market Value – In Place	Fair Market Value- Remove	Orderly Liquidation Value
Freezer	\$225,000	\$100,000	\$75,000
Deboner	\$225,068	\$200,000	\$100,000
Total	\$450,000	\$300,000	\$175,000

¹ When composing Paragraph 27, the author copied the table in Paragraph 26 and then pasted it in Paragraph 27. After having changed the numbers of the pasted table in Paragraph 27, the author forgot to change the column name of the second column.

Dated: January 8, 2008

KOCH FOODS OF ALABAMA, LLC

By: /s/ Zhiyuan Xu
One of Its Attorneys

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CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that on January 8, 2008, copies of *Amendment to Koch Foods' Brief and Evidentiary Materials in Opposition to GECC's Motion for Summary Judgment* were caused to be served via e-mail to the following:

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/s/ Zhiyuan Xu
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